

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

Cause No: 05 – 10125 RCL

Margaret Cimini, )  
 ) Motion of Default against  
 ) the Massachusetts Department of  
 Plaintiff (Respondent below), ) Revenue, Marilyn Ray Smith, and National  
 ) Financial Services, LLC a Fidelity Investment  
 ) Company  
 v. )  
 )  
 Mark Cimini, ) State court cause no.: 97D-4115-DV1  
 )  
 Defendant (Petitioner below), )  
 )  
 and, in re: the support and welfare )  
 of Jonathan Cimini. ) Honorable Judge

That the Defendant moves for Default pursuant to at least Rules 55(b)(1), 55(b)(2), and 60(b) of the Federal Rules of Civil Procedure. Specifically:

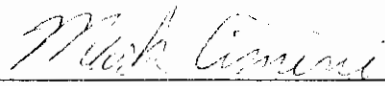
- 1.) The Defendant is domiciled in and is a citizen of Massachusetts and the United States.
- 2.) The motions for contempt were sent to all parties via registered mail (including the Massachusetts Department of Revenue (hereafter DOR)) on or about April 22<sup>nd</sup>. Defendant has all return receipts.
- 3.) The time to reply to the motion of contempt expired the second week in May. No reply was made by any parties.
- 4.) qui tacet consentire videtur: He who keeps silent is assumed to consent; silence gives consent.
- 5.) Both the Plaintiff's and Commonwealth's malingering and overt bad faith in not answering the motions is clearly done to thwart and pervert the course of justice.

**Wherefore**, defendant Mark Cimini comes before the above mentioned court and puts himself upon the law for substantial justice and prays for judgment:

1. The court should sanction the DOR, Marilyn Ray Smith, and National Financial Services,

2. That this court should require the DOR and/or National Financial Services to return all monies,
3. That this court grant any other further relief that this court deems fair, proper, and just.

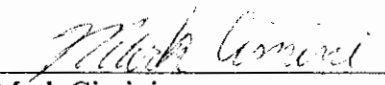
Respectfully submitted,

  
Mark Cimini

VERIFICATION

I hereby declare, verify, certify and state, pursuant to the penalties of perjury under the laws of the United States, and by the provisions of 28 USC § 1746, that all of the above and foregoing representations are true and correct to the best of my knowledge, information, and belief.

Executed at Westford, MA, this 19 day of June, 2005.

  
Mark Cimini

CERTIFICATE OF SERVICE

I hereby certify that, on this 19 day of June, 2005, a true and complete copy of the foregoing petition for contempt, by depositing the same in the United States mail, postage prepaid, has been duly served upon all parties of record in the lower state proceedings, to-wit:

Margaret Cimini 5 Sand Beach Road Westford, MA 01886	Marilyn Ray Smith Deputy Commissioner of Child Support P.O. Box 55149 Boston, MA 02205-5149
Norman R. Malo National Financial Services LLC 82 Devonshire Street Boston, MA 02109	Annapurna Balakrishna Assistant District Attorney One Ashburn Place Boston, MA 02108-1598

and, that the same is being also filed this same date within the lower state trial court proceedings.

  
Mark Cimini

Mark Cimini  
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